

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

PASSION RAY,)	
)	
Plaintiff,)	
)	Case No. 3:24-cv-01250
v.)	
)	District Judge Eli Richardson
GLENN FUNK et al,)	Magistrate Judge Alistair E. Newbern
)	
Defendants.)	

ORDER

Pending is Plaintiff’s Motion for Default Judgment against defendants. (Doc. No. 28). Plaintiff filed the pending motion on March 14, 2025. *Id.* However, defendants have been actively defending this action and have filed motions to dismiss, which remain pending. (Doc. Nos. 8, 16, and 31). “Where a defendant appears and indicates a desire to contest an action, a court may exercise its discretion to refuse to enter default . . . There is a strong public policy, supported by concepts of fundamental fairness, in favor of trial on the merits.” *Higgins v. Dankiw*, No. 8:08CV15, 2008 WL 2565110, at *2 (D. Neb. June 24, 2008) (internal citations omitted). The Clerk finds that defendants have expressed a clear intent to defend this action and are not in default. Accordingly, Plaintiff’s Motion for Default Judgment (Doc. No. 28) is **DENIED**.

s/ Lynda M. Hill
Lynda M. Hill
Clerk of Court